

REMARKS/ARGUMENTS

Applicant has carefully reviewed the Examiner's communication mailed June 18, 2003.

The Examiner has rejected Claims 1-11, 13-18, and 20-22 under 35 U.S.C. 102(e) as being anticipated by Clough (US 5,601,945). Applicants traverse this rejection as applied to the above claims.

The Examiner has maintained that the application is being treated as a continuation-end-part and therefore none of the claims are eligible for the benefit of the filing date of the prior application. Applicant has reviewed the requirements for claiming the benefit of the filing date of earlier filed prior applications and has amended the present claims to satisfy all requirements. It should be noted that all of the applications for which Applicant is claiming the benefit of the filing date have always had copendency as between applications claiming the benefit of such filing dates. In addition, the inventor is the same in all applications. Thus, Applicant has amended independent Claims 1, 9 and 16 to set forth that the claimed porous resilient organic polymer product comprises "a reduced particle size" and has deleted the process details as not necessary to claiming the new resilient organic polymer products. Specific support for the term "reduced particle size" is found at column 2, line 16, United States Patent 6,224,003 and column 16, line 5, United States Patent 5,895,732. Further Applicant has amended Claims 9 and 16 to delete the phrase "functional additive agent absorbed" and substituted the term "liquid contained" for such term. Specific support for the term "liquid contained in the pores" is found at column 5, lines 10-23 of United States Patent 6,224,003 and at column 5, line 9, column 9, lines 30-32 and column 16, lines 10-12 of United States

Patent 5,895,732. Applicant has canceled Claims 4, 5, 11, 12, 13, 14, 18, and 19.

Applicant submits that the present claims are fully supported by the earlier filed applications for which Applicant has claimed the benefit of the filing date.

Turning to the Clough reference, the Examiner has relied on 35 U.S.C.102(e) which refers to an invention that was described in a patent granted on an application for patent by another ... Applicant contends that the disclosure relied upon by the Examiner in the Clough reference is the same disclosure set forth in United States Patent 5, 895,732, the parent application of United States Patent 6,224,003, from which the present application was filed as a divisional application basis a restriction requirement in United States Patent 6,224,003. The benefit of the earlier filing dates has been claimed by Applicant. Further Applicant is submitting a declaration under 37 C.F.R. 1.132 by Clough which sets forth that the new resilient porous polymer products as now claimed in the present application was disclosed in both United States Patents 5,601,945 and 5,895,732 and are the invention of the same single inventive entity, Clough, and were first claimed as a composition of matter in application serial number 09/167,320, now United States Patent 6,224,003. As set forth in the Manual of Patent Examining Procedure, 2136.05, a 35 U.S.C. 102(e) rejection can be overcome by showing the patent is describing Applicant's own work. In view of Applicant's showing of a single inventive entity, Clough, Applicant requests the Examiner to withdraw the rejection of the above claims under 35 U.S.C. 102(e).

In conclusion Applicant submits that the present claims are patentable and allowable and respectfully requests the Examiner to forward this application to issuance at an early date.

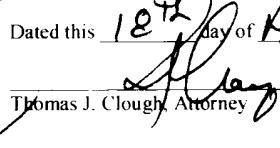
Should any matters remain unresolved, the Examiner is requested to call (collect) Applicant's attorney at the numbers given below.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 29231 on or before August 18, 2003.

Dated this 18th day of August, 2003.


Thomas J. Clough, Attorney

ES-65-DIV-8
09/752,894



Serial No. : 09/752,894
Applicant : Clough
Filed : 12/27/2000
Title : Process for Reducing the Particle Size of Porous Organic Polymers and Products Produced Therefrom

Group Art Unit : 1771
Examiner : Vo, Hai

Docket No. : ES-65-DIV-8

Honorable Commissioner of Patents
Washington, D.C. 20231

Verified Statement

I, Thomas J. Clough, residing at 125 Sharon Lane, Grover Beach in the county of San Luis Obispo and state of California represent that I am an employee of Ensci Inc., a California corporation, the assignee of United States Patents 5,601,945, 5,895,732 and 6,224,003. In addition I further state that the evidentiary documents relating to inventorship of the porous resilient organic polymer products claimed in application serial number 09/752,894 and as disclosed in United States Patents 5,601,945, 5,895,732 and 6,224,003, all have the same inventive entity, Clough, and I certify that to the best of my knowledge and belief that such porous resilient organic polymer product inventions as disclosed in the above identified application and patents are my invention.

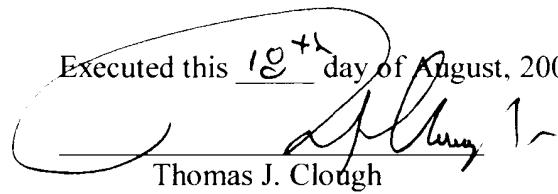
I declare that all statements made herein of my own personal knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of title

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09/752,894

18 of the United States Code and that such willful false statements may jeopardize the validity of the above identified application or any patent issued thereon.

Executed this 18th day of August, 2003.


Thomas J. Clough